



DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS-R8-ES-2022-0050; FXES11140800000-223-FF08ECAR00]

Endangered and Threatened Species; Receipt of an Incidental Take Permit

Application and Low-Effect Habitat Conservation Plan for the San Bernardino

Kangaroo Rat; Blossom Trails (Tract 20090) Project, City of Highland, San

Bernardino County, California

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service, have received an application for an incidental take permit to take the federally listed San Bernardino kangaroo rat under the Endangered Species Act (ESA). The permit application includes a proposed low-effect habitat conservation plan (HCP). In accordance with the requirements of the National Environmental Policy Act (NEPA), we have prepared a draft low-effect screening form supporting our preliminary determination that the proposed action qualifies as a categorical exclusion under NEPA. We are accepting comments on the permit application, proposed low-effect HCP, and draft NEPA compliance documentation.

DATES: To ensure consideration, please send your written comments on or before

[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: *Obtaining Documents:* The documents this notice announces, as well as any comments and other materials that we receive, will be available for public inspection online in Docket No. FWS-R8-ES-2022-0050 at <https://www.regulations.gov>.

Submitting Comments: You may submit comments by one of the following methods:

- *Online:* <https://www.regulations.gov>. Follow the instructions for submitting comments on Docket No. FWS-R8-ES-2022-0050.
- *U.S. mail:* Public Comments Processing, Attn: Docket No. FWS-R8-ES-2022-0050; U.S. Fish and Wildlife Service, 777 East Tahquitz Canyon Way, Suite 208, Palm Springs, CA 92262.

We request that you send comments by only one of the methods described above.

FOR FURTHER INFORMATION CONTACT: Ms. Karin Cleary-Rose, Division Supervisor, Carlsbad Fish and Wildlife Office, 760-322-2070. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: We, the U.S. Fish and Wildlife Service (Service), received an application from Blossom Trails (Tract 20090) Project Owner, S-P Deerfield, LLC (applicant), for an incidental take permit under the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*). The requested permit would authorize take of the federally endangered San Bernardino kangaroo rat (*Dipodomys merriami parvus*) incidental to grading, subdividing, and developing approximately 137 single-family dwelling units and open space, a recreational pool area, a water quality management plan basin, and a public services and facilities plan on approximately 25.5 acres in San Bernardino County, California.

The proposed project will impact an estimated 2.85 acres of habitat occupied by at least four San Bernardino kangaroo rats. Although not likely to support breeding of the species, an additional 19.15 acres of disturbed designated critical habitat will also be permanently impacted; however, of those additional acres of critical habitat, only 11.65 acres may support San Bernardino kangaroo rat foraging and sheltering.

We are requesting comments on the permit application and on our preliminary determination that the proposed HCP qualifies as a low-effect HCP, eligible for a categorical exclusion under the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*). The basis for this determination is discussed in our draft NEPA compliance documentation, which is also available for public review.

Project

The project area is located on a 25.5-acre site in the City of Highland Hills in San Bernardino County, California. The applicant requests a 5-year incidental take permit for take associated with permanent impacts to 2.85 acres of occupied San Bernardino kangaroo rat habitat and 11.65 acres of unoccupied San Bernardino kangaroo rat habitat. The applicant proposes to mitigate impacts through the conservation of 11.5 acres of San Bernardino kangaroo rat occupied sage scrub habitat off site at the San Bernardino Valley Water Conservation District property in San Bernardino County. The off-site mitigation area provides higher quality habitat than that found on the project site and will be conserved, managed, and monitored in perpetuity. In addition, the off-site mitigation area is within designated San Bernardino kangaroo rat critical habitat.

The applicant's proposed HCP also contains measures to minimize the effects of construction activities on the San Bernardino kangaroo rat, including the following:

- Erecting an exclusion fence around the project site to exclude San Bernardino kangaroo rats;
- Providing a qualified biologist on site to ensure that San Bernardino kangaroo rats will not be harmed during fence construction, capture, and translocation activities; and
- Monitoring and reporting to the Service upon project completion.

Our Preliminary Determination

The Service has made a preliminary determination that the project, including

grading, subdividing, construction, and the proposed mitigation, would individually and cumulatively have a minor or negligible effect on the San Bernardino kangaroo rat and the environment. Therefore, we have preliminarily concluded that the HCP is low effect and that the issuance of an incidental take permit for this project would qualify for a categorical exclusion under our NEPA regulations at 43 CFR 46.205 and 46.210.

A low-effect HCP is one that would result in:

- Minor or negligible effects on federally listed, proposed, and candidate species and their habitats;
- Minor or negligible effects on other environmental values or resources; and
- Impacts that, when considered together with the impacts of other past, present, and reasonably foreseeable similarly situated projects, would not over time result in significant cumulative effects to environmental values or resources.

Next Steps

We will evaluate the proposed HCP and any comments received to determine whether to issue the requested permit. We will also conduct an intra-Service consultation pursuant to section 7 of the ESA to evaluate the effects of the proposed take. After considering the above findings, we will determine whether the permit issuance criteria of section 10(a)(1)(B) of the ESA have been met. If met, we will issue the permit to the applicant for incidental take of the San Bernardino kangaroo rat.

Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold your personal

identifying information from public review, we cannot guarantee that we will be able to do so.

Authority

We provide this notice under section 10(c) (16 U.S.C. 1539 *et seq.*) of the ESA and NEPA regulations at 40 CFR 1506.6.

Scott Sobiech,
Field Supervisor,
Carlsbad Fish and Wildlife Office,
Carlsbad, California.

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